

News

Foster Garvey Helps Defend Industrial Stormwater General Permit with Broad Implications for Washington's Industrial Economy

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Foster Garvey represented the BNSF Railway Company and a group of public and private permit holders in a high-stakes administrative appeal involving Washington's Industrial Stormwater General Permit (ISGP), a statewide permit issued by the Washington Department of Ecology that imposes operating conditions on industrial stormwater discharges. Already considered one of the most stringent of its kind nationwide, the permit provides coverage under the Clean Water Act and Washington's Water Pollution Control Act for roughly 1200 facilities statewide and is especially consequential for ports, railroads, marine terminals and warehouses. Washington's ports experience significant competition for cargo and regulatory issues are critical to competitiveness.

The team led a group of Permittee-Appellants through a complex challenge to the permit, first securing two settlement agreements with Ecology before the hearing. Those agreements committed Ecology to propose critical revisions to the ISGP including where the permit applies to rail facilities. Ecology also stayed certain permit conditions and agreed to predictable standards when reviewing applications to modify permit conditions. The team then represented the Permittee-Appellants in a 15-day hearing, successfully defending the permit against challenges from Puget Soundkeeper Alliance and Spokane Riverkeeper ("Keepers"), who sought to substantially rewrite the permit.

On June 12, 2026, the Pollution Control Hearings Board (PCHB) fully affirmed the 2025 ISGP, holding that the Puget Soundkeeper Alliance (PSA) failed to meet its burden of proof on all twelve of its remaining legal issues. The Board rejected challenges to the permit's benchmark-based water quality framework and Ecology's approach to regulating 6PPDQ, a chemical associated with tire wear particles and stormwater runoff. In a related proceeding, the Board dismissed PSA's stand-alone appeal of Ecology's Partial Permit Stay-issued as part of the Permittee-Appellants' first settlement-for lack of jurisdiction, reasoning that the discretionary stay was not a permit modification subject to the Board's review, and the Board also denied PSA's request to stay that stay.

Congratulations to the entire team involved in such an important project that underscores our firm's ability to support clients at the intersection of environmental regulation, transportation, maritime operations, infrastructure and administrative litigation.

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